

Ref

OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

FRANCIS HEMMING, C.M.G., C.B.E.
Secretary to the Commission

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OPINION 414

Use of the Plenary Powers to provide a valid foundation for the continued employment of the generic name *Myiobius* Darwin, 1839 (Class Aves) in its accustomed sense.



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INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

COMPOSITION AT THE TIME OF THE ADOPTION OF THE RULING GIVEN IN OPINION 414

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(*Arranged in order of precedence by reference to date of election or of most recent
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Dr. L. B. HOLTHUIS (*Rijksmuseum van Natuurlijke Historie, Leiden, The Nether-
lands*) (12th August 1953)

OPINION 414

USE OF THE PLENARY POWERS TO PROVIDE A VALID FOUNDATION FOR THE CONTINUED EMPLOYMENT OF THE GENERIC NAME "MYIOBIUS" DARWIN, 1839 (CLASS AVES) IN ITS ACCUSTOMED SENSE

RULING.—(1) The following action is hereby taken under the Plenary Powers :—

- (a) The generic name *Tyrannula* Swainson, May 1827, is hereby suppressed for the purposes of the Law of Priority but not for those of the Law of Homonymy.
- (b) All type selections for the genus *Myiobius* Darwin, 1839, made prior to the present Ruling are hereby set aside and the nominal species *Muscicapa barbata* Gmelin (J.F.), [1789], is hereby designated to be the type species of the above genus.

(2) The under-mentioned generic name is hereby placed on the *Official List of Generic Names in Zoology* with the Name No. 997 : *Myiobius* Darwin, 1839 (gender : masculine) (type species, by designation under the Plenary Powers under (1)(b) above : *Muscicapa barbata* Gmelin (J.F.), [1789]).

(3) The under-mentioned generic name is hereby placed on the *Official Index of Rejected and Invalid Generic Names in Zoology* with the Name No. 439 :—*Tyrannula* Swainson, May 1827, as suppressed under the Plenary Powers under (1)(a) above.

(4) The under-mentioned specific name is hereby placed on the *Official List of Specific Names in Zoology* with the Name No. 728 :—*barbata* Gmelin (J.F.), [1789], as published in the combination *Muscicapa barbata* (specific name of type species of *Myiobius* Darwin, 1839).

I.—THE STATEMENT OF THE CASE

On 16th June 1952, Dr. John T. Zimmer (*American Museum of Natural History, New York*) submitted to the International Commission the following application in which he asked that the Plenary Powers should be used to provide a valid basis for the continued use of the generic name *Myiobius* Darwin, 1839 (Class Aves), in its accustomed sense :—

Proposed use of the Plenary Powers to suppress the name “*Tyrannula*” Swainson, 1827, and to designate a type species for “*Myiobius*” Darwin, 1839 (Class Aves)

By JOHN T. ZIMMER

(*The American Museum of Natural History, New York*)

The object of the present application is to ask the International Commission on Zoological Nomenclature to use its Plenary Powers to vary the normal operation of the Rules for the purpose of preventing the confusion and disturbance in long established nomenclatural practice if those rules were to be applied strictly to the names *Tyrannula* Swainson, 1827, and *Myiobius* Darwin, 1839 (Class Aves).

2. The relevant facts concerning the foregoing names are as follows : Darwin published the name *Myiobius* (July 1839, *Zool. Voy. “Beagle”* 3(9) : 46) to replace the name *Tyrannula* Swainson, 1827, which he regarded as an invalid junior homonym of *Tyrannulus* Vieillot, 1816 (*Analyse* : 31). Darwin did not designate a type species for *Myiobius*, but in 1840 Gray (G.R.) (*List. Gen. Birds.* : 30) selected *Muscicapa “barbatus”* Gmelin (i.e. *Muscicapa barbata* Gmelin, [1789] in Linnaeus, *Syst. Nat.* (ed. 13) 1(2) : 933) as the type species of this genus. At the same time Gray, following Darwin, placed *Tyrannula* Swainson in the synonymy both of *Myiobius* Darwin and of *Pyrocephalus* Gould, [1839].

3. The foregoing arrangement has been followed by subsequent workers with little disagreement, and *Myiobius* has been current for over a century. One of the decisions taken by the International Congress of Zoology (on the recommendation of the Commission) at Paris in 1948, though, in itself, quite acceptable, has, however, introduced a complication in the present case, which, if not remedied in the manner now suggested, would have objectionable results. The decision in question was that under which a generic name published

before 1st January 1931, is to be accepted as having been published with an indication, if the names of previously established species are cited under the new generic name, even if no description of any kind was given for the new genus (see 1950, *Bull. zool. Nomencl.* 4 : 80).

4. The generic name *Tyrannula* was first published by Swainson with a formal description in a paper published in December 1827 (*Zool. J.* 3 : 358). Among the species referred to *Tyrannula* in this paper was *Muscicapra barbata* Gmelin, which (as already noted) Gray later selected as the type species of the substitute genus *Myiobius* Darwin, thereby establishing it also as the type species of *Tyrannula* Swainson, if the paper of December 1827 had been the first valid publication of that name. Unfortunately, however, the December paper was preceded by another published in May 1827 (*Phil. Mag.* (n.s.) 1(5) : 367—368). (One aspect of the problem raised by the May paper was dealt with by the Commission in its *Opinion* 30, published in 1911 (*Smithson. Publ.* 2013 : 69—72).) In this paper Swainson used the name *Tyrannula* for eight species but did not provide a generic description. Of the eight species then referred to *Tyrannula*, five were then described for the first time, two were cited from Gmelin, and one was described but tentatively identified with one of Vieillot's earlier described species. Under the new ruling referred to above, the name *Tyrannula* Swainson of May 1827 is an available name, since its components were specified by the original author. The species *Muscicapra barbata* Gmelin was not among the species placed by Swainson in the genus *Tyrannula* in May 1827 and it cannot therefore be accepted as the type species of this genus. No other species has, however, been suggested to fill that role.

5. Contrary to the view held by Darwin and later by Gray, the name *Tyrannula* Swainson is not a homonym of *Tyrannulus* Vieillot and is, in fact, an available name. Under normal procedures, its type species must be one or other of the eight species cited by Swainson in his paper of May 1827. This would, however, involve three highly undesirable elements. First, although the exact specific identity of two of these species is uncertain, it seems probable that they, like the other six, belong to one or other of the genera now known as *Myiarchus*, *Contopus*, *Empidonax*, *Myiozetetes*, and *Pyrocephalus*. All these genera were established after 1827, and the selection as the type species of *Tyrannula* of any of the eight species referred to that genus by Swainson in May 1827 would therefore necessitate the replacement of one of these long-established names. Second, the selection of any of these species as the type species of *Tyrannula* would involve the proposal of a new name for the century-old genus *Myiobius* Darwin. Third, confusion would be bound to arise if the names *Tyrannula* Swainson and *Tyrannulus* Vieillot were both valid names for genera in the same family.

6. The name *Myiobius* Darwin was unquestionably proposed as a substitute name for *Tyrannula* Swainson (though of what date is

uncertain) and it would be undesirable to disregard the method by which it was proposed, more especially in view of the fact that Darwin did not cite *Muscicapa barbata* Gmelin under his *Myiobius*, and in consequence, Gray's selection of that species as the type species of this genus would in that event be unacceptable. Moreover, none of the species which were cited by Darwin under *Myiobius* is now considered to belong to this genus. The six species in question are now distributed among five genera, of which only one (*Elaenia* Sundevall [1836]) is older than *Myiobius* but more recent than *Tyrannula*. There is moreover nothing in Darwin's account to suggest that he and Gould considered the proposed *Myiobius* as having special application to *barbata* Gmelin, except through *Tyrannula* Swainson.

7. Since the strict application of the normal rules in the Code would involve several changes in old, established generic names and would leave in the same family two generic names differing only in endings of gender, I believe that this is a case where the International Commission should use its Plenary Powers to set aside the ordinary rules and maintain the existing accepted nomenclature in this group.

8. I accordingly recommend the International Commission on Zoological Nomenclature :—

(1) to use its Plenary Powers :—

(a) to suppress the generic name *Tyrannula* Swainson, May 1827, for the purposes of the Law of Priority but not for those of the Law of Homonymy ;

(b) to set aside all selections of type species made prior to the decision now proposed to be taken for the genus *Myiobius* Darwin, 1839, and, having done so, to designate *Muscicapa barbata* Gmelin, [1789], to be the type species of the foregoing genus ;

(2) to place the name *Myiobius* Darwin, 1839 (type species, by designation under the Plenary Powers, as proposed in (1)(b) above : *Muscicapa barbata* Gmelin, [1789]) on the *Official List of Generic Names in Zoology* ;

(3) to place the name *Tyrannula* Swainson, May 1827, as proposed, under (1)(a) above, to be suppressed under the Plenary Powers on the *Official Index of Rejected and Invalid Generic Names in Zoology* ;

(4) to place the trivial name *barbata* Gmelin, [1789], as published in the combination *Muscicapa barbata*, on the *Official List of Specific Trivial Names in Zoology*.

II.—THE SUBSEQUENT HISTORY OF THE CASE

2. Registration of the present application : Upon the receipt of Dr. Zimmer's application the question of the use of the Commission's Plenary Powers for the purpose of securing the position of the generic name *Myiobius* Darwin, 1839, was allotted the Registered Number Z.N.(S.) 676.

3. Support received prior to publication from the Standing Committee on Ornithological Nomenclature : Prior to the publication of the present application it was, at the request of the applicant, considered by the Standing Committee on Ornithological Nomenclature established by the Tenth International Ornithological Congress, Uppsala, 1950, of which Committee the applicant was a member. On 22nd July 1952, Colonel Richard Meinertzhagen, the Chairman of the Standing Committee, addressed the following letter to the Commission intimating that the present application had the full support of that Committee :—

The Standing Committee on Ornithological Nomenclature appointed by the International Ornithological Congress has had under consideration an application submitted to the International Commission on Zoological Nomenclature by Dr. John T. Zimmer in which the Commission is asked to use its Plenary Powers for the purpose of securing the continued availability of the generic name *Myiobius* Darwin, 1839.

The Standing Committee are of the opinion that it would be highly undesirable that the well-known name *Myiobius* Darwin should be replaced by the name *Tyrannula*, 1827, and desire to support the proposal that, in order to prevent the confusion which would follow from the application of the normal rules in this case, the Commission should use its Plenary Powers in the manner proposed, that is, for the purpose of suppressing the name *Tyrannula* Swainson and for designating *Muscicapa barbata* Gmelin, [1789], to be the type species of *Myiobius* Darwin, 1839, thereby preserving that name for use in its accustomed sense.

The foregoing recommendation has the unanimous support of all the members of the Standing Committee, namely, J. Berlioz (*Museum National d'Histoire Naturelle, Paris*) ; Erwin Stresemann (*Zoologisches Museum der Universität, Berlin*) ; John T. Zimmer (*The American Museum of Natural History, New York*) (the applicant in the present case) and myself.

4. Publication of the present application : The present application was sent to the printer on 4th July 1952 ; the letter of support from the Standing Committee on Ornithological Nomenclature was similarly despatched immediately upon its receipt. Both documents were published on 15th October 1952 in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature* (Zimmer, 1952, *Bull. zool. Nomencl.* **9** : 98—100 ; Meinertzhagen, 1952, *ibid.* **9** : 101).

5. Issue of Public Notices : Under the revised procedure prescribed by the Thirteenth International Congress of Zoology, Paris, 1948 (1950, *Bull. zool. Nomencl.* **4** : 51—56), Public Notice of the possible use by the International Commission on Zoological Nomenclature of its Plenary Powers in the present case was given on 15th October 1952 (a) in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature* (the Part in which the application by the Standing Committee on Ornithological Nomenclature was published), (b) to the other prescribed serial publications and (c) to certain general zoological serials. In addition, such Notice was given also to fourteen serial publications or institutions specially concerned with ornithology. The names of the serials and institutions in question have been given in the *Opinion (Opinion 401)*¹ relating to the generic name *Colymbus* Linnaeus, the *Opinion* in which the Commission dealt with the first of the series of applications submitted by the Standing Committee on Ornithological Nomenclature.

6. Comments of a general character : The issue of the Public Notices specified above elicited thirty-seven comments of a general character relating to the cases of ornithological nomenclature published in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature*. These comments came from ornithological institutions, groups of ornithologists and individual specialists. Of these comments, the authors of thirty-six gave general support to the applications published in the foregoing Triple-Part. The single remaining comment was from a specialist who was opposed to any use of the Commission's Plenary Powers. The communications so received have been reproduced in the Appendix annexed to *Opinion 401 (Colymbus)*², those supporting

¹ *Opinion 401* has been published as Part 1 of the present volume.

² See Footnote 1 above.

the applications referred to above being given in Part 1, the single comment in opposition to the above applications being given in Part 2. Only one communication in regard to the present case was received in the Office of the Commission after the publication of Dr. Zimmer's application. This was a letter of support signed by six United States ornithologists. The text of this letter is reproduced in the immediately following paragraph. No objection to the action proposed was received from any source.

7. Support received from Dr. Josselyn Van Tyne (Ann Arbor, Michigan, U.S.A.) and five other United States ornithologists : On 18th March 1953, Dr. Josselyn Van Tyne (*Ann Arbor, Michigan, U.S.A.*) and the five under-mentioned specialists addressed to the Commission a joint letter of support for the action proposed in the present case :—(a) Robert W. Storer (*Museum of Zoology, University of Michigan, Ann Arbor, Michigan, U.S.A.*); (b) Andrew J. Berger (*Ann Arbor, Michigan, U.S.A.*); (c) Olin Sewall Pettingill, Jr. (*Northfield, Minnesota, U.S.A.*); (d) Frank A. Pitelka (*Berkeley, California, U.S.A.*); (e) John Davis (*Los Angeles, California, U.S.A.*). The letter so received was as follows :—

We, the under-signed, wish to express our strong approval of proposal No. 13 (concerning *Myiobius Darwin*) published on page 3³ of vol. 9 of the *Bulletin of Zoological Nomenclature*. We hope that your Commission will take favorable action on it.

III.—THE DECISION TAKEN BY THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

8. Issue of Voting Paper V.P.(54)81 : On 14th May 1954, a Voting Paper (V.P.(54)81) was issued in which the Members

³ The page reference here cited is to the page in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature*, where the present application appeared as proposal No. 13 in the Prescribed Plenary Powers Notice.

of the Commission were invited to vote either for, or against, "the proposal relating to the name *Myiobius Darwin*, 1839, as set out in Points (1) to (4) on page 100 of volume 9 of the *Bulletin of Zoological Nomenclature*" [i.e. in the Points numbered as above in paragraph 8 of the application reproduced in the first paragraph of the present *Opinion*].

9. The Prescribed Voting Period : As the foregoing Voting Paper was issued under the Three-Month Rule, the Prescribed Voting Period closed on 14th August 1954.

10. Particulars of the Voting on Voting Paper V.P.(54)81 : At the close of the Prescribed Voting Period, the state of the voting on Voting Paper V.P.(54)81 was as follows :—

(a) *Affirmative Votes had been given by the following nineteen (19) Commissioners (arranged in the order in which Votes were received) :*

Boschma ; Holthuis ; Lemche ; Dymond ; Hering ;
Vokes ; Esaki ; Riley ; Bonnet ; Bradley (J.C.) ;
Hemming ; do Amaral ; Jaczewski ; Pearson ; Hankó ;
Mertens ; Sylvester-Bradley ; Cabrera ; Stoll ;

(b) *Negative Votes :*

None ;

(c) *Voting Papers not returned :*

None.

11. Declaration of Result of Vote : On 17th August 1954, Mr. Hemming, Secretary to the International Commission, acting as Returning Officer for the Vote taken on Voting Paper V.P.(54)81, signed a Certificate that the Votes cast were as set out in paragraph 10 above and declaring that the proposal submitted in the foregoing Voting Paper had been duly adopted and that the

decision so taken was the decision of the International Commission in the matter aforesaid.

12. Preparation of the Ruling given in the present "Opinion" : On 20th October 1955, Mr. Hemming prepared the Ruling given in the present *Opinion* and at the same time signed a Certificate that the terms of that Ruling were in complete accord with those of the proposal approved by the International Commission in its Vote on Voting Paper V.P.(54)81.

13. Original References : The following are the original references for the names placed on *Official Lists* and *Official Indexes* by the Ruling given in the present *Opinion* :—

barbata, *Muscicapa*, Gmelin (J.F.), [1789], in Linnaeus, *Syst. Nat.* (ed. 13) 1(2) : 933

Myiobius Darwin, July 1839, *Zool. Voy. "Beagle"* 3(9) : 46

Tyrannula Swainson, May 1827, *Phil. Mag.* (n.s.) 1(5) : 367—368

14. Family-Group-Name problems : The application dealt with in the present *Opinion* was published in the *Bulletin of Zoological Nomenclature* prior to the establishment of the *Official List of Family-Group Names in Zoology* by the Fourteenth International Congress of Zoology, Copenhagen, 1953. It has been ascertained that an addition, or additions, to the foregoing *Official List* and/or to the corresponding *Official Index of Rejected and Invalid Family-Group Names in Zoology* will need to be made in order to complete the action, which, under the General Directives given to the International Commission by the International Congress of Zoology, is required to be taken in the present case. This question is now being examined on a separate File to which the Registered Number Z.N.(S.) 1146 has been allotted.

15. At the time of the submission of the present application the name applicable to the second portion of a binomen was "trivial name". This was altered to "specific name" by the Fourteenth International Congress of Zoology, Copenhagen,

1953, which at the same time made corresponding changes in the titles of the *Official List* and *Official Index* of names of this category. These changes in terminology have been incorporated in the Ruling given in the present *Opinion*.

16. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

17. The present *Opinion* shall be known as *Opinion* Four Hundred and Fourteen (414) of the International Commission on Zoological Nomenclature.

DONE in London, this Twentieth day of October, Nineteen Hundred and Fifty-Five.

*Secretary to the International Commission
on Zoological Nomenclature*

FRANCIS HEMMING